

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA

Daniel Thomas,)	
)	No. 5:17-cv-4002
Plaintiff,)	
)	
vs.)	
)	
PERFORMANCE CONTRACTORS, INC.,)	Defendant's Supplemental Statement Of
)	Undisputed Facts In Support Of Motion
Defendant.)	For Summary Judgment
)	

Defendant Performance Contractors, Inc. hereby submits its Supplemental Statement of Undisputed Facts in Support of its Motion for Summary Judgment¹ as follows:

OTHER FACTS

78. On April 3, 2016 at 8:23 pm, Thomas called CF Industries' project manager, Jim Liskey. D. App. 149-150, 145-146, 136, (Deposition of Daniel Thomas ("Thomas Dep.") 16:20-17:6 (stating Thomas' cell phone number is 310-927-7358); Supplemental Affidavit of Erin Nathan in Support of Defendant's Motion for Summary Judgement at ¶2, Daniel Thomas' Itemized Sprint Telephone Records ("Thomas Sprint Records") at SPRINT-000150; Jim Liskey email to Ken Kinyon (showing Liskey's cell phone number as 225-323-3245)).

79. On April 4, 2016, at 4:37 pm, a few minutes before submitting his IMI application, Thomas called Richard Conn. D. App. 149-150, 145-146, 69, 88-107, 7, (Thomas Dep. 16:20-17:6; Thomas Sprint Records at SPRINT-000150; Thomas Dep. 233:12-234:10; Daniel Thomas Industrial Maintenance, Inc. Employment Application at p. 2; Deposition of Kenneth Gardner, as

¹ For purposes of this Motion for Summary Judgement only, Defendant presents the facts in the light most favorable to Plaintiff. Defendant does not concede these facts.

representative of Industrial Maintenance, Inc. (“IMI Dep.”) 62:24-63:4 (stating Richard Conn’s telephone number as 918-231-4864)).

80. Then, after submitting his application, on April 4, 2016, Thomas called Conn two more times, before a third call on April 4, where Thomas and Conn spoke for sixteen minutes. It was during this phone call that Thomas was hired by IMI. D. App. 149-150, 145-146, 7, 69, (Thomas Dep. 16:20-17:6; Thomas Sprint Records at SPRINT-000150; IMI Dep. 62:24-63:4 (stating Richard Conn’s telephone number as 918-231-4864; Thomas Dep. 235:21-23 (“Q. Did IMI offer you a position on April 4th? A. Yes”))).

81. On Tuesday, April 5, 2016, Thomas spoke with Jim Liskey. D. App. 149-150, 145, 147, 136, (Thomas Dep. 16:20-17:6; Thomas Sprint Records at SPRINT-000151; Jim Liskey email to Ken Kinyon (showing Liskey’s cell phone number as 225-323-3245)).

82. Prior to his first phone call with Andrew Morel, on April 7, 2016, Thomas spoke with Liskey for about four minutes. D. App. 149-150, 145-147, 136, 131A, (Thomas Dep. 16:20-17:6; Thomas Sprint Records at SPRINT-000151; Jim Liskey email to Ken Kinyon (showing Liskey’s cell phone number as 225-323-3245); Andrew Morel Phone Records).

SIMMONS PERRINE MOYER BERGMAN PLC

By: 

Erin R. Nathan
115 Third Street SE, Suite 1200
Cedar Rapids, IA 52401-1266
Telephone: (319) 366-7641
Facsimile: (319) 366-1917
E-mail: enathan@simmonsperrine.com
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2018, filed the foregoing using the Court's CM/ECF system, which will send notification of said filing to the following:

Stanley E. Munger
Munger, Reinschmidt & Denne, L.L.P.
600 Fourth Street, Suite 303
P.O. Box 912
Sioux City, IA 51102
Telephone: 712-233-3635
Facsimile: 712-233-3649
Email: stanmunger@mrclaw.net
ATTORNEY FOR PLAINTIFF


